

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.330 of 2017

and C.M.P.No.6375 of 2017

D.Vijayalakshmi

... Petitioner

Vs.

M.Rajesh

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.10 of 2015 pending on the file of the Subordinate Court, Gingee and transfer the same to the file of the III Family Court, Chennai.

For Petitioner : Mr.C.Kathiresan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.10 of 2015 pending on the file of the Subordinate Court, Gingee and transfer the same to the file of the III Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.05.2013 as per Hindu rites and customs. After marriage, both were living together in the matrimonial home at Sepettai, Gingee Taluk, Villupuram District. The respondent has tortured the petitioner by demanding dowry. The petitioner lodged a police complaint against the respondent, his father, mother and other relatives before the Inspector of Police, Nallanpillaipetral Police Station on 18.11.2014 and the same was registered in Crime No.144/2014. The petitioner filed H.M.O.P.No.3214 of 2015 for divorce against the respondent and also filed M.C.No.57 of 2016 under Section 125 Cr.P.C. claiming maintenance on the file of the III Additional Family Court, Chennai and the same are pending. While so, the respondent filed H.M.O.P.No.10 of 2015 on the file of the Subordinate Court, Gingee, for divorce, in order to harass the petitioner.

3.According to the petitioner, she is residing at Chennai and hence, it is difficult for her to travel from Chennai to Gingee for each and every hearing. Further she has no independent income to meet out the travelling expenses. In the

circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of H.M.O.P.No.10 of 2015 from the file of the Subordinate Court, Gingee to the file of the III Additional Family Court, Chennai, to be tried along with H.M.O.P.No.3214 of 2015 and M.C.No.57 of 2016 filed by the petitioner.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5.It is well settled law that whenever the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6.Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above and the residence of the petitioner in Chennai, the petition in H.M.O.P.No.10 of 2015 is ordered to be withdrawn from the file of the Subordinate Court, Gingee and transferred to the file of the III Additional Family Court, Chennai, to be tried along with H.M.O.P.No.3214 of 2015 and M.C.No.57 of 2016 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Gingee, is directed to transmit all the records pertaining to H.M.O.P.No.10 of 2015 to the file of the III Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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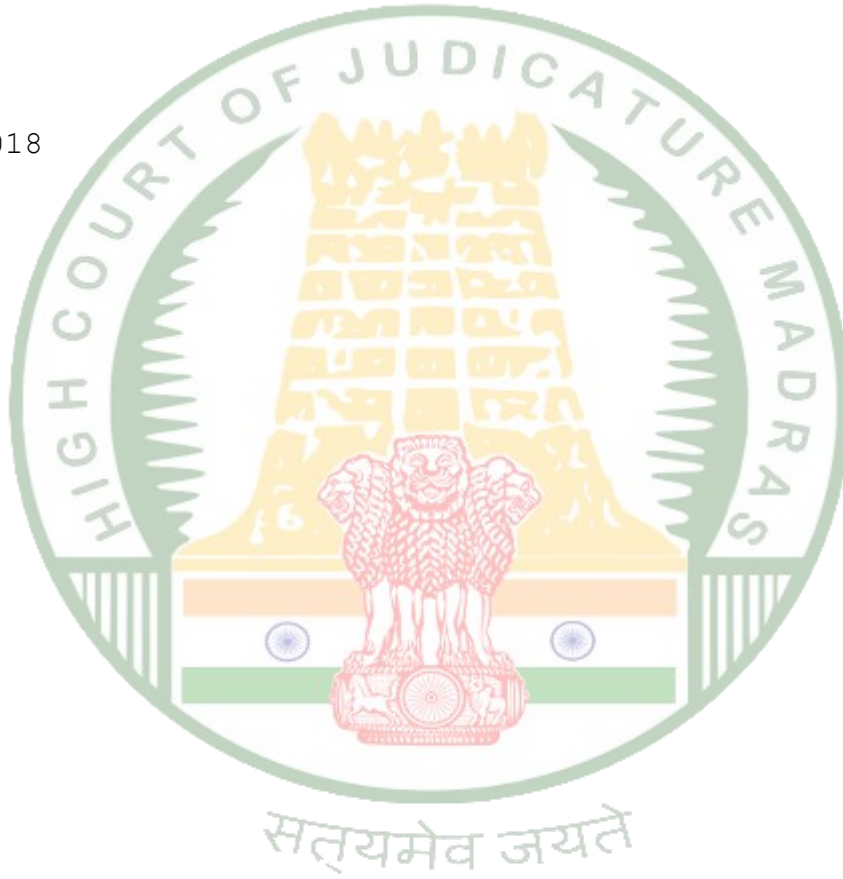
1.The Subordinate Judge
Gingee

2.The III Additional Family Court, Chennai.

+1 cc to Mr.C.Kathiresan Advocate sr 25037

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